

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, et al.	§	
Plaintiffs	§	
	§	
	§	
v.	§	CIVIL ACTION NO. 3:12-cv-02037
	§	
	§	
BRAD LIVINGSTON, et al.	§	
Defendants.	§	

DEFENDANT UTMB'S UNOPPOSED MOTION TO EXTEND DATE
FOR FILING MOTION FOR SUMMARY JUDGMENT
AND *DAUBERT* MOTIONS

1. By this motion, defendant UTMB seeks to extend its deadline for filing its Motion For Summary Judgment and *Daubert* motions by 45 days.
2. This motion does not seek to extend the deadline for all defendants, but only for defendant UTMB and plaintiffs as to UTMB. UTMB has good cause for presenting this motion.
3. On January 28, 2014, the Court allowed Plaintiffs to amend their complaint, and on January 31, 2014, Plaintiffs filed their second amended complaint [DE 118-119].
4. Defendant UTMB currently has an Amended Motion To Dismiss under FRCP 12(c) pending. [D.E. 122]
5. The discovery deadline is March 3, 2014.
6. The motions deadline is currently March 17, 2014.
7. On January 23, 2014, Defendants Clark, Eason, Sanders, Tate, TDCJ filed a notice of agreement, extending their expert designation deadline. Pursuant to the agreement, said Defendants would designate their experts by February 19, 2014 and produce

- their reports by March 4, 2014 (except Mr. Traknyak's report will be produced April 4, 2014). Depositions of these experts are to take place within 20 days after the production of their reports (March 24, and April 24, 2014, respectively). The reports and depositions are occurring outside of the discovery deadline by agreement.
8. On February 6, 2014, UTMB filed an amended 12 (c) motion, which is still pending.
[D.E. 122]
 9. Despite the current discovery deadline of March 3, 2014, the parties, by agreement, continue to propound discovery requests and take depositions of fact witnesses and experts well outside of the discovery deadline. For example, Mr. Storie was deposed March 4, 2014; Dr. Adams will be deposed on March 7, 2014; Dr. Linthicum is to be deposed on April 8; and Plaintiffs will undoubtedly depose some of TDCJ's designated experts—Mr. Medoza, Dr. Leeah, etc. in March and April.
 10. Moreover, on February 27, 2014, the Court issued an order allowing Plaintiffs to be re-deposed regarding the new allegations in their second amended complaint, et al. D.E. 129.
 11. The testimony of the upcoming experts is a very important part of defendant's Motion For Summary Judgment and *Daubert* Motions. Even though the transcripts will be rushed, defendant seeks an extension to receive the transcripts and complete the motions.
 12. Because defendant's Motion to Dismiss is still pending and discovery is continuing through at least April 24, 2014, an extension is necessary in order to be able to properly present all available evidence to the court in dispositive and *Daubert* motions.

13. Defendant prays that the new deadline be April 30 for Defendant UTMB and Plaintiffs, as to UTMB.
14. An April 30 deadline still leaves over three months before the August 4, 2014 trial date, as required by the Court's Scheduling Order and pursuant to local rule 56.2.
15. Plaintiffs are not opposed provided the trial date remains set for August 2014.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I, KIM COOGAN, Assistant Attorney General of Texas, has conferred with opposing counsel, Jeff Edwards, regarding this motion and he does not oppose this motion.

/s/KIM COOGAN
KIM COOGAN
Assistant Attorney General

NOTICE OF ELECTRONIC FILING

I, KIM COOGAN, Assistant Attorney General of Texas, do hereby certify I have electronically submitted for filing, a true and correct copy of Defendant UTMB's Unopposed Motion To Extend Date For Filing Motion For Summary Judgment And *Daubert* Motions, in accordance with the Electronic Case Files system of the USDC – Northern District of Texas, on this the 6th day of March, 2014.

/s/KIM COOGAN
KIM COOGAN
Assistant Attorney General

CERTIFICATE OF SERVICE

I, KIM COOGAN, Assistant Attorney General of Texas, do hereby certify that a true and correct copy of the above and foregoing Defendant UTMB's Unopposed Motion To Extend Date For Filing Motion For Summary Judgment And *Daubert* Motions, has been served by placing the same in the United States Postal Service, postage prepaid, on this the 6th day of March, 2014, addressed to:

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